

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tatsuya MITSUGI

Application No.: 09/955,197

Confirmation No.: 8676

Filed: September 19, 2001

Art Unit: 2174

For: COMMUNICATION NETWORK SYSTEM

Examiner: R. F. Pitaro

REPLY BRIEF

MS REPLY BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Appellants provide the following Remarks in response to the Examiner's Answer dated January 25, 2008.

Remarks/Arguments

REMARKS

In response to the Examiner's Answer dated January 25, 2008, Appellants provide the following comments.

The Examiner mischaracterizes the teachings in Britt at paragraph 51. Britt teaches that additional servers can be used in its network. Britt does not teach or suggest modifying its portal servers to remove the conversion process performed therein. The Examiner implies that Britt suggests using a separate conversion server even though the Portal server already performs these tasks. This makes little sense to one of ordinary skill without the suggestion to modify the portal servers to remove this function. There is no suggestion or teaching to modify the portal servers and that is the problem with the prior art. Since every portal has a different conversion and formatting scheme based on the different content, in terms of the prior art it was necessary to perform conversion and formatting at the portals themselves. Appellant's invention addresses the problems associated with the prior art by the specific use of a centralized conversion/formatting server and contents server for various portals. Paragraph 51 relied upon by the Examiner for motivation to modify Britt's teachings states:

It will be apparent, however, to one skilled in the art that the invention may be practiced without some of these specific details. For example, while the system described above employs a sing server 110, alternative embodiments of the invention may include numerous different servers (e.g., database servers, web servers, etc), and/or mirrored servers distributed across a network. [0051]

Nothing in this statement teaches or suggests anything more than the possibility to add various different servers. This statement does not suggest modifying the portal servers themselves, nor is this suggested elsewhere or by one of ordinary skill in the art.

Even if one of ordinary skill in the art would combine Whitledge's conversion server with Britt based on the statement in paragraph 51, it would only lead to a system in Britt in which an additionally added server performs conversion. It speaks

nothing of how this additional server is implemented in the system and it doesn't change the fact that Britt teaches conversion performed in the portal servers themselves.

The Examiner is making conclusory statements as to what can be achieved by combining the teachings of Britt and Whitledge. As stated in *Kahn* and reminded in KSR "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in KSR)


None of the references teach a portal server that does not perform conversion. In fact Britt teaches that portal servers must perform conversion. Why would one of ordinary skill be motivated to include a separate conversion/formatting server which services each portal server when each portal server performs this function already? The Examiner does not provide any reasoning beyond stating that Britt teaches additional servers can be added to his network. This suggestion, however, does not address the concerns with the portal servers themselves. In essence the Examiner is making a leap of faith which is merely conclusory and based on hindsight in reaching the claimed features by using the combination of teachings of Britt and Whitledge.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: March 19, 2008

Respectfully submitted,

By 
Chad J. Billings
Registration No.: 48,917
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant